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C O N F I D E N T I A L ISLAMABAD 003154

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SUBJECT: SUPREME COURT RULES THAT CHIEF JUSTICE MUST BE
REINSTATED

REF: ISLAMABAD 2699 AND PREVIOUS

Classified By: Anne W. Patterson, Reasons 1.4 (b), (d)

¶1. (C) Summary: On June 20, the Supreme Court of Pakistan ruled that President Musharraf's suspension of the Chief Justice had been unconstitutional. The court's decision was not unexpected, a fact that did not stop the media from turning the day leading up to the announcement into a live-from-in-front-of-the-Supreme-Court spectacle. If the President accepts the decision gracefully, as his advisors are encouraging him to do, he and his party should still be able to engage in damage control and put the controversy quickly behind them. End Summary.

¶2. (C) On July 20, a 13 member bench of Pakistan's Supreme Court ruled that the Chief Justice Mohammad Iftikhar Chaudhry must be reinstated. In the 10-3 decision, the court stated that President Musharraf exceeded his constitutional authority when, on March 9, he presented the Chief Justice with a reference (charge sheet), convened a Supreme Judicial Council to hold hearings on the reference, and suspended the Chief Justice. The vote on all the key items was 10-3, with the exception of the issue of whether the Supreme Court was constitutionally empowered to rule on various petitions related to the Chief Justice controversy. On the last item, the Court was unanimous in accepting jurisdiction.

¶3. (C) Shortly after the announcement, Prime Minister Aziz told reporters he had "always maintained a decision by the honorable court must be accepted by all sections of the people including the government itself." As of close of business Pakistan time, the government had not issued an official statement.

¶4. (SBU) Background: In early March, President Musharraf presented a reference (charge sheet) to the Chief Justice of Pakistan. Most of the complaints involved minor corruption and nepotism. The same day, the President ordered the establishment of a "Supreme Judicial Council" to decide the merits of the reference against the Chief Justice. In late April, the Supreme Court of Pakistan agreed to hear arguments on a variety of petitions concerning the Chief Justice's case and the constitutionality of convening the Supreme Judicial Council. On May 7, the Supreme Court ordered the Supreme Judicial Council to suspend proceedings on the Chief Justice's case until the Supreme Court ruled on various

related petitions. The July 20 ruling effectively ends the Supreme Judicial Council proceedings against the Chief Justice.

15. (C) Comment: Musharraf's advisors had warned him since April that he would lose the Supreme Court case. The same advisors had been hoping for an early decision by the court so that they could engage in damage control and move their focus to preparing for the election. Today's verdict, while embarrassing to the President -- who has always said he would abide by the decision -- should allow him and his party to do just that. End Comment.

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